

## **EXHIBIT P**

1  
2  
3 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
4 -----

5 ANGELO PENA, ROLANDO ROJAS, JOSE DIROCHE,  
6 and FRANKLIN SANTANA, individually and on  
behalf of others similarly situated,

7 Plaintiffs,

8 vs. No. 07 CV 7013

9 SP PAYROLL, INC., NICHOLAS PARKING, CORP.,  
10 IVY PARKING CORP., BIENVENIDO, LLC,  
11 CASTLE PARKING CORP., SAGE PARKING CORP.,  
and SAM PODOLAK,  
12 Defendants.  
13 -----

14  
15 DEPOSITION OF LUIS LUNA  
16 New York, New York  
17 Friday, December 7, 2007  
18  
19  
20  
21  
22

23 Reported by:  
24 Meredith Stoeckel  
25 JOB NO. 14367

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1 L. Luna  
 2 A. Grand Concourse -- it's an avenue. The  
 3 building of the bodega is 1269.  
 4 Q. What street?  
 5 A. On Grand Concourse. That's in the  
 6 Bronx.  
 7 Q. That's what I was asking. Thank you.  
 8 How long did you work at the bodega in Grand  
 9 Concourse?  
 10 A. Eight months.  
 11 Q. Is it correct then to say that you  
 12 began working for Grand Concourse in the beginning  
 13 of 2007?  
 14 A. Yes.  
 15 Q. What did you do for the bodega at Grand  
 16 Concourse?  
 17 A. Arranging the merchandise.  
 18 Q. What was your hourly wage?  
 19 A. It was a fixed salary. They would pay  
 20 350 per week.  
 21 Q. Did you receive that in cash or check?  
 22 A. Cash.  
 23 Q. How many hours a week did you work for  
 24 the bodega?  
 25 A. From four to eleven. From four o'clock  
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1 L. Luna  
 2 in the afternoon to eleven o'clock. Six days a  
 3 week.  
 4 Q. So you worked for the bodega  
 5 approximately 42 hours a week?  
 6 A. Yes.  
 7 Q. And you were paid solely in cash by the  
 8 bodega?  
 9 A. Yes.  
 10 Q. Where did you work prior to working for  
 11 the bodega?  
 12 A. In the parking.  
 13 Q. You worked for the defendants prior to  
 14 working for the bodega?  
 15 A. Yes.  
 16 Q. During what period of time did you work  
 17 for the defendants?  
 18 A. From 2002 to the end of 2004.  
 19 Q. When were you initially hired by the  
 20 defendants? You mentioned 2002. When in 2002?  
 21 A. 26th March.  
 22 Q. And approximately when did you stop  
 23 working for the defendants? You mentioned the end  
 24 of 2004. Does November 2004 sound accurate to  
 25 you?  
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1 L. Luna  
 2 A. Yes.  
 3 Q. What did you do for defendants?  
 4 A. Park the cars.  
 5 Q. Why did you stop working for the  
 6 defendants in November 2004?  
 7 A. Because we couldn't understand each  
 8 other.  
 9 Q. Did you resign from your employment  
 10 with the defendants or were you terminated?  
 11 A. They fired me.  
 12 Q. Why were you fired?  
 13 MR. FAILLACE: Objection. He  
 14 already answered. He said, We didn't  
 15 understand each other. What more do you  
 16 need?  
 17 Q. I'll ask the question again. Why were  
 18 you fired?  
 19 MR. FAILLACE: Objection. He  
 20 answered already. He can answer. Go  
 21 ahead. Repeat the question.  
 22 A. Because we couldn't understand each  
 23 other. Too many hours of work, and I was not  
 24 making enough money.  
 25 Q. What was the reason the defendants told  
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1 L. Luna  
 2 you they were firing you?  
 3 MR. FAILLACE: Objection. He has  
 4 already answered it twice. Interpreter,  
 5 please tell him what I'm saying. But go  
 6 ahead. Answer.  
 7 A. Can you please repeat the question?  
 8 MS. WHITE: Can the court reporter  
 9 please repeat the question?  
 10 (Record read.)  
 11 A. There were too many hours of work and  
 12 that we couldn't understand each.  
 13 Q. Who told you that?  
 14 A. I told him that.  
 15 Q. You told who?  
 16 A. Raj, the supervisor.  
 17 Q. If I understand correctly, you told  
 18 Raj, your supervisor, that there were too many  
 19 hours of work, and that you were not making enough  
 20 money?  
 21 A. Exactly.  
 22 Q. So I'll ask you again, Did you resign  
 23 from the company or did they fire you?  
 24 A. They fired me because I didn't want to  
 25 continue.  
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1 L. Luna  
2 employment around March 26th of 2002. Who at the  
3 company hired you?  
4 A. Raj.  
5 Q. And for which garage were you initially  
6 hired?  
7 A. 187 and Valentine.  
8 MR. FAILLACE: For clarification,  
9 when he says 187 Valentine, he means  
10 187th Street and Valentine Avenue. The  
11 same as 162 -- so we don't go through the  
12 same mess with Grand Concourse. When  
13 they say a number and a name, they mean  
14 this street and that avenue. Okay.  
15 Q. Just to clarify, Mr. Luna, you were  
16 just referring to 187 Valentine as the garage  
17 where you were initially hired. Were you  
18 referring to 187th Street and -- the intersection  
19 of 187th Street and Valentine?  
20 A. Yeah.  
21 Q. Do you know the name of that parking  
22 garage?  
23 A. Ivy Parking.  
24 Q. For how long did you work at Ivy  
25 Parking?

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1 L. Luna  
2 A. Until the end of 2004.  
3 Q. For which garage did you work after you  
4 worked for Ivy Parking?  
5 A. For the same one -- 169.  
6 Q. Do you know the name of that garage?  
7 A. It's called the parking of 169, because  
8 it's the same company. And when they needed  
9 somebody there, they would move the person there.  
10 Q. So after you worked at Ivy Parking on  
11 187th Street, you worked at 169th Street?  
12 A. Because it's the same company, the same  
13 owner.  
14 MR. FAILLACE: Excuse me. Your  
15 question was after you worked at 187 you  
16 went to work at 169. He is answering at  
17 the same time he worked at both places.  
18 And you can ask the interpreter.  
19 MS. WHITE: Let me ask the  
20 interpreter. Is that exactly what he  
21 said, or is Mr. Faillace interpreting  
22 what he said?  
23 THE INTERPRETER: I don't  
24 remember. Sorry.  
25 MS. WHITE: I will confirm.

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1 L. Luna  
2 Q. Did you work for Ivy Parking and the  
3 garage at 169th Street at the same time, or did  
4 you work for one after you worked for the other?  
5 A. If there was people not coming or  
6 missing on 169th Street, they would send people  
7 who didn't have much work on Ivy Parking to work  
8 on the 169.  
9 Q. Okay. What other garages did you work  
10 at between March 2002 and November 2004 besides  
11 Ivy Parking and the garage at 169th Street?  
12 A. No others.  
13 Q. Those are the only two garages you  
14 worked for the defendants?  
15 A. Yes.  
16 Q. For which garage did you work the most?  
17 A. 187 and Valentine.  
18 Q. Did you have any other jobs while you  
19 were employed by the defendants?  
20 A. No.  
21 Q. Did you own your own business at the  
22 time that you were working for the defendants?  
23 A. No.  
24 Q. What were your hours when you were  
25 initially hired by the defendants in March 2002?

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1 L. Luna  
2 A. From six in the afternoon to six  
3 o'clock in the morning.  
4 Q. How many hours a week did you work?  
5 A. Twelve and thirteen hours. Because  
6 sometimes the other people wouldn't come and we  
7 had to wait.  
8 Q. Let me repeat the question.  
9 How many hours per week did you work?  
10 You testified you worked from seven p.m. to  
11 six a.m. How many hours a week?  
12 MR. FAILLACE: Objection. He  
13 worked from six p.m. to six a.m.  
14 Q. Six p.m. to six a.m.  
15 How many hours per week did you work?  
16 A. Sometimes I would work 72 hours.  
17 Q. How many days a week did you work?  
18 A. Six and sometimes seven.  
19 Q. Let me make sure I'm understanding your  
20 testimony. Your regular schedule was typically  
21 from six p.m. to six a.m., six days a week. And  
22 sometimes you worked seven days a week; is that  
23 correct?  
24 A. Yes.  
25 Q. How often did you work seven days a

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1 L. Luna

2 **Q. So it's your testimony that you would**  
3 **receive 10 or \$15 in cash to compensate you for**  
4 **that hour that you came in before the beginning of**  
5 **your shift?**

6 MR. FAILLACE: Objection. That is  
7 not his testimony. You're putting  
8 words --

9 MS. WHITE: I'm asking -- I'm  
10 asking if that's his testimony. He can  
11 respond to the question.

12 MR. FAILLACE: That is not his  
13 testimony. You're putting words in his  
14 mouth.

15 MS. WHITE: He can respond to the  
16 question.

17 MR. FAILLACE: Objection. You're  
18 putting words in his mouth. That is not  
19 his testimony.

20 MS. WHITE: Your objection is  
21 noted, Mr. Faillace. I'm asking a  
22 question and --

23 MR. FAILLACE: Please interpret  
24 what I'm saying. Please, interpreter,  
25 say what I'm saying. Please let my

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1 L. Luna

2 client know what I'm saying.

3 A. It was not per hour. It was per week.

4 **Q. So you received 10 to \$15 in cash per**  
5 **week?**

6 A. Yes, per week.

7 **Q. Did you ever receive more than \$15 in**  
8 **cash in a week?**

9 A. No.

10 **Q. So are you testifying under oath that**  
11 **you never received more than \$40 in cash in a**  
12 **week?**

13 A. No.

14 **Q. Just to clarify, you never received**  
15 **greater than \$100 in cash in a week?**

16 A. \$100, no, no.

17 **Q. Never?**

18 A. No, never.

19 **Q. Were there ever any weeks when you**  
20 **didn't receive any cash?**

21 A. No.

22 **Q. When you came into work at five p.m.,**  
23 **why didn't you punch in at five p.m.?**

24 A. Because my time -- my schedule was from  
25 six o'clock.

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1 L. Luna

2 **Q. Did somebody tell you not to punch in**  
3 **at five p.m.?**

4 A. It was not -- I was not supposed to  
5 punch before six.

6 **Q. Who told you that you were not supposed**  
7 **to punch before six?**

8 A. The supervisor himself told me.

9 **Q. Which supervisor told you that?**

10 A. Raj.

11 **Q. When did Raj tell you that?**

12 A. He would say that to us right there in  
13 the parking.

14 **Q. When you say "us," who are you**  
15 **referring to?**

16 A. To me and the workers.

17 **Q. Which workers are you referring to? I**  
18 **would like their names.**

19 A. The people that work there.

20 **Q. Which people? I would like their**  
21 **names.**

22 A. Of the schedule that work with me.  
23 People that work with me and my schedule.

24 **Q. Who worked with you?**

25 A. There was a worker that was called Jose

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1 L. Luna

2 and myself on that shift.

3 **Q. Did you ever work with anybody else**  
4 **besides Jose on your shift?**

5 A. With him. That was my colleague.

6 **Q. Did you hear Raj tell Jose that he was**  
7 **not to punch in before the beginning of his shift?**

8 A. Yes.

9 **Q. How many times a week would you come in**  
10 **at five o'clock p.m. instead of six o'clock p.m.?**

11 MR. FAILLACE: Objection. He  
12 already answered.

13 MS. WHITE: He can answer the  
14 question again.

15 A. That was when they call you to come  
16 earlier.

17 **Q. You testified earlier that --**

18 A. Three or four times during the week.

19 **Q. So is it your testimony that even**  
20 **though your shift was typically six p.m. to six**  
21 **a.m. three to four times per week, from March 2002**  
22 **to November 2004, you came in at five p.m. instead**  
23 **of six p.m.?**

24 A. Yes.

25 **Q. Every single week?**

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1 **L. Luna**  
 2 A. Yes. Whenever we were called in to  
 3 come.  
 4 **Q. And your testimony is you were never**  
 5 **paid for that hour besides the cash that you**  
 6 **received each week?**  
 7 A. Because the cash was only like 40, 45  
 8 pesos.  
 9 **Q. Did you receive dollars or pesos?**  
 10 A. Dollars.  
 11 **Q. So your testimony is that you received**  
 12 **about 40, \$45 per week in cash?**  
 13 A. Yes.  
 14 **Q. Mr. Luna, a little while ago I asked**  
 15 **you how much in cash you received each week. And**  
 16 **I asked you if you ever received \$40 a week in**  
 17 **cash. And you just testified that you did.**  
 18 **Before, you testified that you didn't. Which is**  
 19 **it?**  
 20 A. Well, I'm talking now about when we  
 21 came an hour earlier.  
 22 **Q. Then you would receive 40 to \$45 in**  
 23 **cash that week?**  
 24 A. Yes.  
 25 **Q. Would you agree that you received at**

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1 **L. Luna**  
 2 **your testimony is that you received around \$40 in**  
 3 **cash that week to compensate you for that extra**  
 4 **hour?**  
 5 A. Yes.  
 6 **Q. Did you ever continue to work after six**  
 7 **a.m.?**  
 8 A. Yes.  
 9 **Q. How often would you work after six**  
 10 **a.m.?**  
 11 A. About ten weeks.  
 12 **Q. But generally your shift ended at six**  
 13 **a.m., correct?**  
 14 A. Yes.  
 15 **Q. You testified earlier that you worked**  
 16 **with Jose; is that correct?**  
 17 A. Yes, that was my working buddy.  
 18 **Q. Did Jose also park cars?**  
 19 A. Yes.  
 20 **Q. Did you ever let Jose punch your**  
 21 **timecard in or out?**  
 22 A. No.  
 23 **Q. Did you ever pay another employee to**  
 24 **work one of your shifts?**  
 25 A. No.

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1 **L. Luna**  
 2 **least \$40 in cash almost every week that you**  
 3 **worked for the defendants?**  
 4 MR. FAILLACE: Objection. He said  
 5 already he didn't.  
 6 So please tell him what I just  
 7 said.  
 8 He can answer it. I'm just  
 9 saying -- I objected because he already  
 10 told her something different. She's  
 11 putting words in his mouth again. She's  
 12 attempting to put words in my client's  
 13 mouth.  
 14 **Q. Let me rephrase the question.**  
 15 **You testified that every week three or**  
 16 **four times a week you would come in to work at**  
 17 **five p.m. instead of six p.m., correct?**  
 18 A. Yes.  
 19 **Q. You also testified, correct me if I'm**  
 20 **wrong, that on those weeks when you did come in at**  
 21 **five p.m. instead of six p.m. that you received**  
 22 **approximately \$40 in cash; is that correct?**  
 23 A. Yes.  
 24 **Q. If every week you came in to work at**  
 25 **five p.m. instead of six p.m. at least once, then**

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1 **L. Luna**  
 2 **Q. Has another employee ever paid you to**  
 3 **work his or her hours?**  
 4 A. No.  
 5 **Q. In the time that you worked for**  
 6 **defendants between March 2002 and November 2004,**  
 7 **did you ever take a leave of absence from work?**  
 8 A. No, I didn't take any vacation.  
 9 **Q. Did you ever take any other time off of**  
 10 **work?**  
 11 A. No.  
 12 **Q. Did you ever leave the country between**  
 13 **March 2002 and November 2004?**  
 14 MR. FAILLACE: Objection.  
 15 A. No. You can check my passport.  
 16 **Q. I have your passport right here. I'm**  
 17 **about to show you.**  
 18 **Did you leave the country in March**  
 19 **2003?**  
 20 A. No.  
 21 **Q. You did not?**  
 22 A. No.  
 23 MR. FAILLACE: Can we take a  
 24 break?  
 25 MS. WHITE: Can I have two minutes

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1 L. Luna  
 2 that is in front of you?  
 3 A. Yes.  
 4 Q. Do you agree that the bottom has been  
 5 Bates stamped P00417 and that the last page is  
 6 Bates stamped P00457?  
 7 A. Yes.  
 8 Q. And what is the exhibit that has been  
 9 marked Luna Exhibit 2?  
 10 A. That is a copy of a check.  
 11 Q. So these documents here that have been  
 12 Bates stamped P00417 through P00457 are copies of  
 13 your pay stubs; is that correct?  
 14 A. Yes.  
 15 Q. Mr. Luna, if you'll turn to the page  
 16 that's marked at the bottom P00452. At the top of  
 17 the page, do you agree it says "period ending  
 18 October 3, 2004" at the very top, correct?  
 19 A. Yes.  
 20 Q. Under that, the pay date is "October 9,  
 21 2004," correct?  
 22 A. Yes.  
 23 Q. And this is a check for 40 hours of pay  
 24 at gross pay of \$206; is that correct?  
 25 A. Yes.

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1 L. Luna  
 2 Q. If you turn to the following page that  
 3 has been marked as P00453. Do you see at the top  
 4 the period ending and the pay date is the same as  
 5 the previous page?  
 6 A. Yes.  
 7 Q. Okay. So am I correct that for the pay  
 8 date October 9, 2004 you received two checks, each  
 9 check for a gross pay of \$206?  
 10 A. Yes.  
 11 Q. Does this refresh your recollection  
 12 that at least one of these checks was for vacation  
 13 pay?  
 14 A. I'm not sure. I see that I received  
 15 two checks.  
 16 Q. Do you know why you received two  
 17 checks?  
 18 A. Vacations. They give you first one  
 19 week and then they give you the other week.  
 20 Q. So this is for two weeks of vacation  
 21 pay?  
 22 A. No. This is for two years.  
 23 Q. But the amount of the check is for  
 24 vacation pay -- for one week salary?  
 25 A. Yes. One week vacation, yes.

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1 L. Luna  
 2 Q. Have you ever been paid for time that  
 3 you didn't work other than these two weeks of  
 4 vacation pay?  
 5 A. No. If I wouldn't work, they wouldn't  
 6 pay me.  
 7 Q. Did you ever receive holiday pay?  
 8 A. No.  
 9 Q. Did you ever receive sick pay?  
 10 A. No.  
 11 Q. Did you ever receive a loan from the  
 12 company in the amount of \$320?  
 13 A. No.  
 14 Q. Did you ever receive a loan from the  
 15 company in any amount?  
 16 MR. FAILLACE: I'm sorry. The  
 17 interpreter said a payment from the  
 18 company.  
 19 Is that what you said, a payment?  
 20 MS. WHITE: A loan.  
 21 A. No. Loan, no.  
 22 Q. Did you ever borrow money from the  
 23 company?  
 24 MR. FAILLACE: Objection. He  
 25 answered.

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1 L. Luna  
 2 A. No.  
 3 Q. How often did you get paid by the  
 4 defendants?  
 5 A. Weekly.  
 6 Q. Did you always receive a paycheck for  
 7 each pay period?  
 8 A. Yes.  
 9 Q. Did your paycheck indicate the number  
 10 of hours that you worked?  
 11 A. Yes.  
 12 Q. Did it list your hourly rate of pay?  
 13 A. Yes.  
 14 Q. Did you receive at least minimum wage  
 15 for the first 40 hours that you worked in any pay  
 16 period?  
 17 A. I think that the minimum wage was 5.15  
 18 that they pay me.  
 19 Q. Do you understand what overtime is?  
 20 A. Yes. When you work more.  
 21 Q. Do you understand that overtime is when  
 22 you work more than 40 hours in a week?  
 23 A. Yes.  
 24 Q. Did your paycheck also list overtime  
 25 hours?

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1 L. Luna  
 2 A. No.  
 3 Q. Your paycheck never listed overtime  
 4 hours?  
 5 A. No, no.  
 6 Q. If you look at the very first page of  
 7 Exhibit 2 that's in front of you right here, see  
 8 where it says "regular"? "Forty hours at 5.15."  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. And do you see under that it says  
 12 overtime?  
 13 A. But they didn't give us that on the  
 14 check. They would give it to us cash.  
 15 MR. FAILLACE: He didn't say that.  
 16 THE INTERPRETER: No?  
 17 MR. FAILLACE: No.  
 18 Q. Could you repeat what you just said for  
 19 the interpreter?  
 20 A. That money was not given to us on the  
 21 check. The overtime, no.  
 22 Q. So right here where it says overtime --  
 23 six hours. Do you see that on here? And it says  
 24 that at a rate of \$7.25 per hour. Do you see  
 25 that?

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1 L. Luna  
 2 A. Yes.  
 3 Q. And you see across it says "for this  
 4 period, \$46.35," correct? And that's in addition  
 5 to \$206 of regular pay. Do you see that?  
 6 A. Yes.  
 7 Q. For a total gross pay of 252.35.  
 8 A. Yes. But they would give that to us in  
 9 cash.  
 10 Q. Okay. Do you see where it says "net  
 11 pay" on here, "\$218.79"? Please look at Exhibit  
 12 2. Would you receive in that check the entire  
 13 amount of net pay?  
 14 A. I don't remember. But if it says so, I  
 15 am sure that -- but I don't remember.  
 16 Q. Let me rephrase my question. These  
 17 paychecks that you have in front of you, the pay  
 18 stubs, reflect that you were paid by check for at  
 19 least some overtime hours; isn't that correct?  
 20 A. Yes. They would give it to me on a  
 21 check.  
 22 Q. Okay. That's my question. Thank you.  
 23 Do you understand what the term "time  
 24 and a half" means?  
 25 A. No.

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1 L. Luna  
 2 Q. Do you understand that the overtime  
 3 rate of pay was one and a half times your regular  
 4 rate of pay?  
 5 A. The overtime, yes. Yes, that's time  
 6 and a half.  
 7 Q. Did you receive time and a half for  
 8 your overtime hours?  
 9 MR. FAILLACE: He was asking. He  
 10 was asking.  
 11 Q. He was asking? What were you asking?  
 12 I'm sorry.  
 13 A. No, I'm telling you that time and a  
 14 half -- that's the hour for overtime.  
 15 Q. Right. Do you agree that you were paid  
 16 time and a half for the overtime hours that you  
 17 worked?  
 18 A. Yeah, the overtime.  
 19 Q. You testified that you received cash in  
 20 addition to your check, correct?  
 21 A. When you work more.  
 22 Q. Why did you receive -- explain to me  
 23 why you received cash in addition to your check.  
 24 A. Because it goes over the 40 hours of  
 25 the five days of work.

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1 L. Luna  
 2 Q. So let me -- I'm trying to understand  
 3 your testimony. Is your testimony that you  
 4 received cash to compensate you for hours that you  
 5 worked in addition to the hours that were  
 6 compensated in your paycheck?  
 7 A. Yes. Because that was when you went  
 8 over the time. When you work seven days -- if you  
 9 work more than seven days -- five days -- for  
 10 instance, if you work seven days, they would give  
 11 you 40 to \$45 for that.  
 12 Q. Who gave you the cash?  
 13 A. Raj.  
 14 Q. Isn't it true that some of the cash  
 15 that you received was to compensate you for a  
 16 lunch hour or a meal break during your shift?  
 17 A. No, we never got breaks. There were no  
 18 breaks.  
 19 Q. Did you keep a record of the amount of  
 20 cash that you received?  
 21 A. The check. No, no. Now that you're  
 22 mentioning cash -- no, no. There was no receipt,  
 23 nothing.  
 24 Q. Did you make any note of the amount of  
 25 cash that you received?

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1 L. Luna  
2 understand very well what's going on.  
3 And you're putting words in his mouth to  
4 suit your own record. But go ahead. Do  
5 it. It's not going to make any  
6 difference. Do it.  
7 MS. WHITE: Are you finished,  
8 Mr. Faillace?  
9 MR. FAILLACE: I am finished. But  
10 let the record show you're taking  
11 advantage of my client's lack of  
12 education and lack of knowledge. Go  
13 ahead.  
14 MS. WHITE: Are you now finished,  
15 Mr. Faillace?  
16 MR. FAILLACE: Yes.  
17 MS. WHITE: I'd like to state on  
18 the record --  
19 MR. FAILLACE: Please repeat what  
20 I said in Spanish to my client.  
21 **Q. When I ask you, Mr. Luna, is it your**  
22 **testimony, if you disagree with what I'm saying,**  
23 **you understand that you should tell me; isn't that**  
24 **correct? In other words, if I mischaracterize**  
25 **your testimony, it is your obligation to let me**

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1 L. Luna  
2 know, correct?  
3 A. Yes.  
4 **Q. Okay. I'm just trying to understand.**  
5 **I'm not trying to mischaracterize your testimony.**  
6 **I'm trying to understand your testimony.**  
7 **With respect to the hours that you**  
8 **worked over 40 hours in a week, is it correct that**  
9 **you were paid overtime for those hours?**  
10 A. Yes, they paid the overtime.  
11 **Q. So is it your claim that what you**  
12 **weren't paid for is your lunch hour?**  
13 MR. FAILLACE: Objection. He  
14 already told you he didn't get paid for  
15 lunch, and for six or seven additional --  
16 when he worked a six or seven additional  
17 day. You're trying to twist his claim.  
18 He said it clearly. Let the record show  
19 that you're twisting his claim again.  
20 MS. WHITE: Mr. Faillace --  
21 MR. FAILLACE: No, he said, Lunch  
22 hour, and when I worked an extra day, I  
23 wasn't paid. He said it. Now, you're  
24 trying to twist it and say, No, you only  
25 said lunch.

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1 L. Luna  
2 MS. WHITE: Mr. Faillace, I'm  
3 trying to get my response on the record.  
4 Please tell me when you're done.  
5 MR. FAILLACE: No. You're trying  
6 to get what you want on the record. Go  
7 ahead.  
8 MS. WHITE: Please tell me when  
9 you're done.  
10 MR. FAILLACE: Keep going.  
11 MS. WHITE: Are you done?  
12 MR. FAILLACE: But let the record  
13 show you're twisting his testimony again.  
14 Go ahead.  
15 MS. WHITE: Are you done?  
16 MR. FAILLACE: Go ahead.  
17 MS. WHITE: Let the record show --  
18 I'm responding now. Mr. Faillace, under  
19 the federal rules of evidence, you are  
20 permitted to object. You are not  
21 permitted to lead the witness. If you  
22 have an objection --  
23 MR. FAILLACE: I'm not leading the  
24 witness because the interpreter is not  
25 saying a word. Let the record show that

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1 L. Luna  
2 the interpreter is not saying a word of  
3 what I'm saying. So how can I lead my  
4 witness who doesn't speak a word of  
5 English? Excuse me. Let the record show  
6 you're trying to again make statements  
7 that are totally false. My client hasn't  
8 heard a word of what I said in Spanish.  
9 MS. WHITE: Are you directing the  
10 interpreter not to repeat your objection?  
11 MR. FAILLACE: No, I'm not. But  
12 she didn't say a word of what I was  
13 saying. Did she?  
14 MS. WHITE: Would you like her to?  
15 MR. FAILLACE: I mean, she can say  
16 it.  
17 MS. WHITE: Would you like her to?  
18 I'm asking if you want your objection  
19 interpreted to your witness?  
20 MR. FAILLACE: I have asked her to  
21 do it, but she didn't say it on that  
22 occasion.  
23 MS. WHITE: Mr. Faillace, we both  
24 can't talk at the same time because the  
25 court reporter can't get it down.

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1 L. Luna  
 2 Would you like the interpreter to  
 3 repeat to your witness the objection that  
 4 you made?  
 5 MR. FAILLACE: I have asked her  
 6 repeated times to do so, but she didn't  
 7 do it.  
 8 MS. WHITE: Right now are you  
 9 asking her?  
 10 MR. FAILLACE: I mean, she knows  
 11 what to do. I don't have to repeat it to  
 12 her. She's a smart lady.  
 13 MS. WHITE: I'm going to ask the  
 14 interpreter to repeat -- if the court  
 15 reporter could repeat back Mr. Faillace's  
 16 first objection. And we will repeat it  
 17 to the witness so that the witness hears  
 18 all that is going on today.  
 19 (Record read.)  
 20 Q. Just to clarify, I'm not trying to  
 21 mischaracterize your testimony. I'm just trying  
 22 to understand. For the hours that you worked that  
 23 were not reflected on your paycheck, did you  
 24 receive cash to compensate you for those hours?  
 25 MR. FAILLACE: Objection. Already  
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1 L. Luna  
 2 answered.  
 3 Q. You can answer the question.  
 4 A. On the seven days -- on the seven days  
 5 you mean? They gave us 40 to 45.  
 6 Q. Previously your testimony was that you  
 7 worked seven days in a week for a period of about  
 8 four months; is that correct?  
 9 A. For eight to ten weeks we worked seven  
 10 days a week.  
 11 Q. And in those weeks your testimony is  
 12 that you received 40 to \$45 in cash for the extra  
 13 time that you worked; is that correct?  
 14 A. Yes.  
 15 Q. Other than those eight to ten weeks  
 16 that you were just testifying about, were you  
 17 compensated for the hours that you worked?  
 18 A. No.  
 19 Q. What were you not compensated for?  
 20 A. The lunch time.  
 21 Q. Were you not compensated for anything  
 22 else?  
 23 A. No.  
 24 Q. Thank you. Did you ever leave the  
 25 premises during a shift?  
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1 L. Luna  
 2 MR. FAILLACE: Objection. He  
 3 already answered.  
 4 A. No.  
 5 Q. Did you ever take a meal break during  
 6 your shift?  
 7 A. No.  
 8 Q. Did you ever eat while you were on your  
 9 shift?  
 10 A. We eat like that. Running and working  
 11 and eating, because it was very busy.  
 12 Q. Is it your testimony that you would eat  
 13 food while you were working?  
 14 A. Every five minutes a car would come.  
 15 So we would have to leave our food and take care  
 16 of the car and go back. We had to leave our food  
 17 and we had to run.  
 18 Q. Did you ever leave the premises to go  
 19 get food?  
 20 A. No.  
 21 Q. Did you bring the food into work with  
 22 you?  
 23 A. Yes.  
 24 Q. Did anyone tell you that you were  
 25 entitled to a meal break?  
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1 L. Luna  
 2 A. Yes.  
 3 Q. Who told you that you were entitled to  
 4 a meal break?  
 5 A. The same customers would tell me that I  
 6 had a right to have a moment to eat.  
 7 Q. Did anyone at the company tell you that  
 8 you are entitled to a meal break?  
 9 A. No. From the company, no. The  
 10 customers would.  
 11 MS. WHITE: I'm going to mark this  
 12 as Luna Exhibit 3.  
 13 (Luna Exhibit 3, SP Payroll  
 14 document, marked for identification, as  
 15 of this date.)  
 16 Q. Mr. Luna, if you'll take a look at the  
 17 document that is in front of you that has been  
 18 marked Exhibit 3. Is that your signature at the  
 19 bottom of the document?  
 20 A. Yes, that's my signature.  
 21 Q. Do you recognize what this document is?  
 22 A. No.  
 23 Q. Did you read this document before you  
 24 signed it?  
 25 A. No.  
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1 L. Luna  
 2 Q. You see that the document is written in  
 3 both English and Spanish; is that correct? In  
 4 that second paragraph --  
 5 MR. FAILLACE: He hasn't answered  
 6 your question.  
 7 MS. WHITE: I'm trying to assist  
 8 him.  
 9 MR. FAILLACE: Maybe he can't read  
 10 it.  
 11 Q. Are you able to read Spanish, Mr. Luna?  
 12 A. Yes. They never gave us that.  
 13 Q. That's not my question. Do you see  
 14 that second paragraph where it's written in  
 15 Spanish?  
 16 A. Yes.  
 17 Q. Are you able to read the Spanish that  
 18 is written there?  
 19 A. Yes. But we never got the hour for  
 20 lunch.  
 21 Q. Is it your testimony that you never  
 22 read this document?  
 23 A. No, I didn't read it.  
 24 Q. Are you in the custom of signing  
 25 documents that you don't read?

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1 L. Luna  
 2 MR. FAILLACE: Objection.  
 3 Objection.  
 4 A. Well, I was trusting.  
 5 Q. I will repeat the question. Are you in  
 6 the custom of signing documents that you don't  
 7 read?  
 8 A. Yes, I am used to it.  
 9 Q. Is it your testimony that you do not  
 10 know that you can take a break?  
 11 MR. FAILLACE: Objection. He has  
 12 already --  
 13 A. Nobody would take the break. There was  
 14 no time.  
 15 Q. Did anybody tell you not to take a  
 16 break?  
 17 A. There was no time. The supervisor  
 18 never told us that we had an hour for lunch.  
 19 Q. Did you take a break of any length  
 20 during your shift when you worked?  
 21 A. No, we couldn't.  
 22 Q. Is it your testimony here today that  
 23 you never took even a minute break during your  
 24 shift when you worked with the defendants in the  
 25 entire time between March 2002 and November 2004?

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1 L. Luna  
 2 A. No. We didn't take lunch.  
 3 Q. Did you ever take a break for any  
 4 reason, not just for lunch or to eat a meal?  
 5 A. Only when I was going to the bathroom.  
 6 Q. With the exception of using the  
 7 restroom, did you ever take a break for any other  
 8 reason?  
 9 A. No.  
 10 Q. Did you ever see Jose the individual  
 11 with whom you worked take a break?  
 12 A. That was very busy. We had to run,  
 13 both of us.  
 14 Q. How many cars did you generally park or  
 15 return to customers in an hour?  
 16 A. That depends on the movement because  
 17 the cars were coming in and going out. It was  
 18 like an elevator. It was five stories of cars.  
 19 Q. Are you able to estimate the  
 20 approximate number of cars that came in or went  
 21 out of the garage in an hour when you were working  
 22 during your shift?  
 23 A. Thirty to 40 vehicles. And according  
 24 to how they are coming, you have to park them.  
 25 You have to put them in the elevator and park

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1 L. Luna  
 2 them.  
 3 Q. Did you ever take time off of work to  
 4 care for a family member?  
 5 MR. FAILLACE: Objection.  
 6 A. No.  
 7 Q. Did you ever take time off to run a  
 8 personal errand?  
 9 A. I would do everything on a Tuesday.  
 10 That was my free day.  
 11 Q. How did you get to work?  
 12 A. On bus.  
 13 Q. Was the bus ever late in getting you to  
 14 work?  
 15 A. No, I knew my timing.  
 16 Q. Was the bus ever delayed in picking you  
 17 up?  
 18 A. No. I would always come ten to  
 19 fifteen -- ten or five minutes before the time. I  
 20 knew my time.  
 21 Q. Were you ever disciplined during your  
 22 employment with the company?  
 23 A. No.  
 24 Q. Has anyone ever informed you that they  
 25 wished to be part of this lawsuit?

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1 L. Luna  
 2 Who handed you this document to sign?  
 3 MR. FAILLACE: Objection. He  
 4 answered that his lawyer gave him the  
 5 document. So go ahead.  
 6 MS. WHITE: Can you repeat  
 7 Mr. Faillace's objection?  
 8 A. My lawyer.  
 9 Q. Have you met or talked to anyone else  
 10 about this lawsuit besides Mr. Faillace?  
 11 A. No.  
 12 Q. Have you talked to Mr. Reyes about this  
 13 lawsuit?  
 14 A. No.  
 15 Q. Did you ever complain to anyone at the  
 16 garages that you were not being paid for hours  
 17 worked other than Raj in November 2004?  
 18 A. No.  
 19 Q. Do you know who Sam Podolak is?  
 20 A. Sam, yes.  
 21 Q. Who is Sam Podolak?  
 22 A. The owner of the parking.  
 23 Q. Do you know if Sam plays any role in  
 24 preparing the payroll to employees?  
 25 A. He has to do something with it because  
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1 L. Luna  
 2 he's the owner.  
 3 Q. Do you personally know that Sam plays a  
 4 role in preparing the payroll to employees?  
 5 A. I don't know.  
 6 Q. Did you ever complain to Sam that you  
 7 were not being paid for hours due?  
 8 A. No.  
 9 Q. Are you familiar with an individual by  
 10 the name of Samuel Gerraro?  
 11 A. No.  
 12 Q. Are you familiar with an individual by  
 13 the name of Percio Ramon-Amparo?  
 14 A. No.  
 15 Q. Do you know an individual named Roberto  
 16 Rojas?  
 17 A. No, I don't know anyone.  
 18 Q. Do you know an individual by the name  
 19 of Nestor Cedeno?  
 20 A. No.  
 21 Q. Do you know an individual by the name  
 22 of Angelo Pena?  
 23 A. No.  
 24 Q. Do you know Rolando Rojas?  
 25 A. No.  
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1 L. Luna  
 2 Q. Do you know Jose Diroche?  
 3 A. Jose?  
 4 Q. Jose.  
 5 MR. FAILLACE: You're not saying  
 6 his name correctly.  
 7 A. I only know Jose that worked with me,  
 8 but it's more than two years that I haven't seen  
 9 him. It's more than two years I haven't seen him.  
 10 Q. Do you know any individual by the name  
 11 Diroche?  
 12 A. No.  
 13 Q. Do you know Franklin Santana?  
 14 A. No.  
 15 Q. Have you at any time sat down and tried  
 16 to calculate the amount of money that you believe  
 17 is owed to you?  
 18 A. No.  
 19 Q. Have you kept any notes about the  
 20 number of hours you worked at the company?  
 21 A. By the checks.  
 22 Q. Other than the pay stubs, do you have  
 23 any other notes about the number of hours that you  
 24 worked for the defendants?  
 25 A. No.  
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1 L. Luna  
 2 Q. Other than your pay stubs, do you have  
 3 any documents or notes that show any compensation  
 4 that you received from the company?  
 5 A. No payments, no.  
 6 Q. Do you have any documents at all that  
 7 you received from the company other than your pay  
 8 stubs?  
 9 A. No.  
 10 Q. Other than what we have talked about  
 11 today, are you claiming any other wrongful conduct  
 12 against you by defendants?  
 13 A. Conduct, no.  
 14 MS. WHITE: I think I'm done.  
 15 Thank you.  
 16 EXAMINATION BY  
 17 MR. FAILLACE:  
 18 Q. Mr. Luna, did you work more than ten  
 19 hours a day?  
 20 A. Yes.  
 21 Q. How many days a week did you work more  
 22 than ten hours a day?  
 23 A. It was right after the two initial  
 24 months.  
 25 Q. Did you ever get paid additional pay  
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1 **L. Luna**  
2 **for working more than ten hours a day?**

3 MS. WHITE: Objection to form.

4 A. No.

5 MR. FAILLACE: That's it. Thank  
6 you.

7 MS. WHITE: It is now 12:50 p.m.  
8 I'm suggesting that we take a lunch  
9 break. We have another witness here,  
10 Mr. Reyes, correct, who is scheduled to  
11 testify.

12 Mr. Faillace has something he  
13 would like to add to the record.

14 MR. FAILLACE: Mr. Reyes is  
15 willing to be deposed. He's ready,  
16 willing and able. He's just -- has to do  
17 it right now. He's saying he's willing  
18 to do it if we continue right now.

19 MS. WHITE: Okay. My question is,  
20 it's 12:55. We haven't had a lunch break  
21 yet. We have to take a lunch break.  
22 We're going to take a lunch break. Are  
23 you saying that Mr. Reyes cannot  
24 continue -- cannot begin the deposition  
25 after the lunch break or can he?

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1 L. Luna

2 THE INTERPRETER: (Through  
3 Mr. Reyes). If it's short.

4 MS. WHITE: So if we take a lunch  
5 break, you are able to return and do your  
6 deposition?

7 THE INTERPRETER: (Through Mr.  
8 Reyes). I'm going to call my company to  
9 see what happens.

10 MS. WHITE: We are going to take a  
11 lunch break. When we come back, we'll  
12 see if he can move forward with the  
13 deposition. It is now just before 1:00.

14 (Time noted: 12:58 p.m.)  
15

16  
17  
18  
19  
20 **LUIS LUNA**

21  
22 Subscribed and sworn to before me  
23 this \_\_\_\_ day of \_\_\_\_\_, 2007.  
24  
25

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1  
2 **CERTIFICATE**  
3 **STATE OF NEW YORK )**  
4 **: ss.**  
5 **COUNTY OF NEW YORK )**  
6

7 I, Meredith Stoeckel, a Notary  
8 Public within and for the State of New  
9 York, do hereby certify:

10 That LUIS LUNA, the witness whose  
11 deposition is hereinbefore set forth,  
12 was duly sworn by me and that such  
13 deposition is a true record of the  
14 testimony given by the witness.

15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or marriage, and that I  
18 am in no way interested in the outcome  
19 of this matter.

20 IN WITNESS WHEREOF, I have  
21 hereunto set my hand this 19th day of  
22 December, 2007.  
23  
24  
25

**Meredith Stoeckel**

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22  
23  
24  
25

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## **EXHIBIT Q**

**SP Payroll corp.**

1832 Second Ave  
New York, NY 10128  
212 289 3800  
fax: 212 202 5354

I understand that company policy is I will receive a 1 hour meal break per shift. The 1 hour per shift will be deducted from the time card total.

Yo entiendo que la reglas de la compania es que yo recibire 1 hora de luch por cada turno. La hora por cada turno sera reducida de el total de horas de la tarjeta.

Luis Ramon

employee name

Luisa Collado

employee signature

LUNA

## **EXHIBIT R**

Sage Parking Corp  
1295 Jerome Ave  
Bronx NY 10452

9/10/07

To Whom it may Concern,

I, Patricio Gonzalez, have received \$5,000 cash from Sage Parking Corp. I realize I have no claim against Sage or SP Payroll Inc. for anything. I have been paid in full for every hour I have worked including time and a half for every hour over 40 hours per week plus an extra hour for any days where I worked over 10 hours. I have not been pressured into signing this agreement.

A JUREN LE ENTERECE  
yo Patricio Gonzalez, he recibida \$5,000 en efectivo  
de Sage Parking Corp.

File  
Sage  
Legal

DEF004881

# Patricio Gonzalez Patricio Gonzalez

## **EXHIBIT S**

10/13/02

I, Edison Alvarez  
have been paid for  
all my hours in Full  
prior to 10/13/02. I  
understand that beginning  
10/14/02 I will be  
working 40 hours at  
the rate of \$5<sup>15</sup>/<sub>4</sub>  
per hour



Edison Alvarez

DEF001738

To Whom It May Concern, I Edison  
 Alvarez have been working For Bren and  
 Sage Parking for a total of 40 hours per  
 week since 9/1/02.

9/6/02 ~~Edison Alvarez~~  
 9/13/02 ~~Edison Alvarez~~  
 9/20/02 ~~Edison Alvarez~~  
 9/27/02 ~~Edison Alvarez~~  
 10/4/02 ~~Edison Alvarez~~  
 10/11/02 ~~Edison Alvarez~~  
 10/18/02 ~~Edison Alvarez~~  
 10/25/02 ~~Edison Alvarez~~  
 11/1/02 ~~Edison Alvarez~~  
 11/8/02 ~~Edison Alvarez~~  
 11/15/02 ~~Edison Alvarez~~  
 11/22/02 ~~Edison Alvarez~~  
 11/29/02 ~~Edison Alvarez~~  
 12/6/02 ~~Edison Alvarez~~  
 12/13/02 ~~Edison Alvarez~~  
 12/20/02 ~~Edison Alvarez~~  
 12/27/02 ~~Edison Alvarez~~

9/6/02-12/31/02

## **EXHIBIT T**

# Earnings Statement



SP PAYROLL INC.

Period Ending: 10/05/2003  
 Pay Date: 10/11/2003

Taxable Marital Status: Single  
 Exemptions/Allowances:  
 Federal: 1  
 State: 1  
 Local: 1

EDISON ALVAREZ  
 47-10 LAUREL HILL RD  
 4L  
 WOODSIDE, NY 11377

Social Security Number: 078-86-6078

Earnings	rate	hours	this period	year to date
Regular	5.4000	40.00	216.00	2,498.25
Overtime				200.86
Previous Reg				56.65
<b>Gross Pay</b>			<b>\$216.00</b>	<b>2,755.76</b>

Deductions	Statutory	
	Federal Income Tax	-10.54 142.68
	Social Security Tax	-13.39 170.86
	Medicare Tax	-3.13 39.96
	NY State Income Tax	-2.51 33.17
	New York Cit Income Tax	-1.91 26.48
	NY SUI/SDI Tax	-0.60 7.80
<b>Other</b>		
R		400.00
<b>Net Pay</b>		<b>\$183.92</b>

Your federal taxable wages this period are \$216.00

CASH 208<sup>00</sup>

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AJ- 000085 100600

NUMBER 0000001590 1

**Earnings Statement**

SP PAYROLL INC.

 Period Ending: 10/26/2003  
 Pay Date: 11/01/2003

 Taxable Marital Status: Single  
 Exemptions/Allowances:  
 Federal: 1  
 State: 1  
 Local: 1

 EDISON ALVAREZ  
 47-10 LAUREL HILL RD  
 4L  
 WOODSIDE, NY 11377

BCUD

Social Security Number: 078-86-6078

Earnings	rate	hours	this period	year to date
Regular	5.4000	40.00	216.00	3,146.25
Overtime				200.86
Previous Reg				56.65
<b>Gross Pay</b>			<b>\$216.00</b>	3,619.76

Deductions	Statutory		
	Federal income Tax	-10.54	174.30
	Social Security Tax	-13.40	224.43
	Medicare Tax	-3.14	52.49
	NY State Income Tax	-2.51	40.70
	New York Cit Income Tax	-1.91	32.21
	NY SUI/SDI Tax	-0.60	9.60
	<b>Other</b>		
	R		400.00
<b>Net Pay</b>		<b>\$183.90</b>	

Your federal taxable wages this period are \$216.00

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**Earnings Statement**

SP PAYROLL INC.

Period Ending: 07/11/2004  
Pay Date: 07/17/2004

J.S.

Taxable Marital Status: Single  
Exemptions/Allowances:Federal: 1  
State: 1  
Local: 1EDISON ALVAREZ  
47-10 LAUREL HILL RD  
4L  
WOODSIDE, NY 11377

Social Security Number: 078-86-6078

<b>Earnings</b>	rate	hours	this period	year to date
Regular	5.4000	40.00	216.00	5,038.20
S	5.4000	8.00	43.20	
Other				16.20
<b>Gross Pay</b>			<b>\$259.20</b>	5,097.60

<b>Deductions</b>	Statutory		
	Federal Income Tax	-15.52	244.98
	Social Security Tax	-16.07	316.05
	Medicare Tax	-3.76	73.92
	NY State Income Tax	-4.23	58.14
	New York Cit Income Tax	-2.73	44.20
	NY SUI/SDI Tax	-0.60	14.39
<b>Net Pay</b>		<b>\$216.29</b>	

Your federal taxable wages this period are \$259.20

210  
223

CASH 223

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**Earnings Statement**

SP PAYROLL INC.

Period Ending: 10/17/2004  
Pay Date: 10/23/2004Taxable Marital Status: Single  
Exemptions/Allowances:Federal: 1  
State: 1  
Local: 1EDISON ALVAREZ  
47-10 LAUREL HILL RD  
4L  
WOODSIDE, NY 11377

Social Security Number: 078-86-6078

Earnings	rate	hours	this period	year to date
Regular	5.4000	40.00	216.00	7,689.60
Other				16.20
Previous Reg				216.00
<b>Gross Pay</b>			<b>\$216.00</b>	8,051.40

Deductions	Statutory		
Federal Income Tax	-10.54		374.98
Social Security Tax	-13.40		499.19
Medicare Tax	-3.14		116.75
NY State Income Tax	-2.51		88.26
New York Cit Income Tax	-1.91		67.70
NY SUI/SDI Tax	-0.60		22.19
<b>Net Pay</b>		<b>\$183.90</b>	

Your federal taxable wages this period are \$216.00

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SP PAYROLL INC.

Period Ending: 11/28/2004  
 Pay Date: 12/04/2004

Taxable Marital Status: Single  
 Exemptions/Allowances:  
 Federal: 1  
 State: 1  
 Local: 1

**EDISON ALVAREZ**  
**47-10 LAUREL HILL RD**  
**4L**  
**WOODSIDE, NY 11377**

Social Security Number: 078-86-6078

<b>Earnings</b>	<b>rate</b>	<b>hours</b>	<b>this period</b>	<b>year to date</b>
Regular	5.4000	32.00	172.80	8,942.40
S	5.4000	8.00	43.20	
Other				16.20
Previous Reg				216.00
<b>Gross Pay</b>			<b>\$216.00</b>	<b>9,347.40</b>

<b>Deductions</b>	<b>Statutory</b>		
Federal Income Tax	-10.54	438.22	
Social Security Tax	-13.39	579.54	
Medicare Tax	-3.13	135.54	
NY State Income Tax	-2.51	103.32	
New York Cit Income Tax	-1.91	79.16	
NY SUI/SDI Tax	-0.60	25.79	
<b>Net Pay</b>		<b>\$163.92</b>	

Your federal taxable wages this period are \$216.00

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# Earnings Statement



SP PAYROLL INC.

Period Ending: 12/31/2004  
 Pay Date: 12/31/2004

Taxable Marital Status: Single  
 Exemptions/Allowances:  
 Federal: 1  
 State: 1  
 Local: 1

EDISON ALVAREZ  
 47-10 LAUREL HILL RD  
 4L  
 WOODSIDE, NY 11377

Social Security Number: 078-86-6078

Earnings	rate	hours	this period	year to date
Regular	5.4000	40.00	216.00	9,806.40
Other				16.20
Previous Reg				216.00
<b>Gross Pay</b>			<b>\$216.00</b>	10,211.40

Deductions	Statutory	
Federal Income Tax	-10.54	480.38
Social Security Tax	-13.40	633.11
Medicare Tax	-3.14	148.07
NY State Income Tax	-2.51	113.36
New York Cit Income Tax	-1.91	86.80
NY SUI/SDI Tax	-0.60	28.19
<b>Net Pay</b>	<b>\$183.90</b>	

Your federal taxable wages this period are \$216.00

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**Earnings Statement**

SP PAYROLL INC.

Period Ending: 01/09/2005  
Pay Date: 01/15/2005Taxable Marital Status: Single  
Exemptions/Allowances:  
Federal: 1  
State: 1  
Local: 1EDISON ALVAREZ  
47-10 LAUREL HILL RD  
4L  
WOODSIDE, NY 11377

Social Security Number: 078-86-6078

<b>Earnings</b>	<b>rate</b>	<b>hours</b>	<b>this period</b>	<b>year to date</b>
Regular	6.0000	40.00	240.00	463.20
<b>Gross Pay</b>			<b>\$240.00</b>	463.20

<b>Deductions</b>	<b>Statutory</b>	
Federal Income Tax	-12.75	23.82
Social Security Tax	-14.88	28.72
Medicare Tax	-3.48	6.72
NY State Income Tax	-3.47	6.26
New York Cit Income Tax	-2.37	4.42
NY SUI/SDI Tax	-0.60	1.20
<b>Net Pay</b>		<b>\$202.45</b>

Your federal taxable wages this period are \$240.00

CAS # 267

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AJ- 000085 100800 CLOCK NUMBER 020  
0000003841 1**Earnings Statement**

SP PAYROLL INC.

Period Ending: 01/16/2005  
Pay Date: 01/22/2005Taxable Marital Status: Single  
Exemptions/Allowances:Federal: 1  
State: 1  
Local: 1EDISON ALVAREZ  
47-10 LAUREL HILL RD  
4L  
WOODSIDE, NY 11377

Social Security Number: 078-86-6078

Earnings	rate	hours	this period	year to date
Regular	6.0000	40.00	240.00	703.20
<b>Gross Pay</b>			<b>\$240.00</b>	703.20

Deductions	Statutory		
	Federal Income Tax	-12.75	36.57
	Social Security Tax	-14.88	43.60
	Medicare Tax	-3.48	10.20
	NY State Income Tax	-3.47	9.73
	New York Cit Income Tax	-2.37	6.79
	NY SUI/SDI Tax	-0.60	1.80
<b>Net Pay</b>		<b>\$202.45</b>	

Your federal taxable wages this period are \$240.00

\$295.<sup>00</sup> CASH  
 - 326.<sup>00</sup>  
 -----  
 340 + 1

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## **EXHIBIT U**



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DAVID SAPERSTEIN

1 to the -- to Mr. Alvarez's questions?

2 A No. The only conversations I had with  
3 Sam regarding Alvarez is Sam told me Alvarez  
4 couldn't make more than 40 hours on a check due  
5 to some sort of a personal issue and that he was  
6 to get 40 hours on a check and everything else  
7 in cash.

8 Q Was there a limit to the number of  
9 hours that Mr. Alvarez could work?

10 A That, I don't know.

11 Q When you say a personal issue, I think  
12 you said?

13 A Yeah. I think it had something to do  
14 with his apartment. I'm not sure.

15 Q Do you have any more information about  
16 why Mr. Alvarez was limited in the way that you  
17 said he was?

18 A No.

19 Q After you spoke with Sam, did you make  
20 some changes in the amount of cash for  
21 Mr. Alvarez?

22 A No.

23 Q You gave him the amount that Sam said  
24 to give him?

25

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DAVID SAPERSTEIN

1 Q How about Patricio Gonzalez, do you  
2 know who that is?

3 A I know the name.

4 Q You never met or spoke with him?

5 A I never met him. I am aware of  
6 paperwork regarding him and this suit where he  
7 had come to some sort of a settlement previous  
8 to this suit.

9 Q Do you know who Victor Gonzalez is?

10 A An employee.

11 Q Have you ever met or spoken with him?

12 A No.

13 Q How about Luis Luna?

14 A Employee.

15 Q Have you ever met or spoken with him?

16 A No.

17 Q Have you ever met or spoken with  
18 Angelo Pena?

19 A Yes.

20 Q Once? More than once?

21 A More than one occasion.

22 Q Can you put a timeframe on those  
23 meetings?

24 A No.

25

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DAVID SAPERSTEIN

1 A Yes.

2 Q When was the last time, if you can  
3 recall, that Mr. Alvarez complained to you about  
4 the amount of his pay?

5 A I don't remember.

6 Q Was it anytime in the last year?

7 A No.

8 Q Do you know Jose Diroche?

9 A I know the name.

10 Q Did you ever meet him?

11 A Not personally, no.

12 Q Have you ever spoken with him?

13 A No.

14 Q You recognize the name as one of the  
15 employees; is that right?

16 A I recognize him both as an employee  
17 and a member of this proceeding.

18 Q But you knew who he was before the  
19 lawsuit?

20 A I knew the name.

21 Q You knew the name?

22 A Yes.

23 Q Before the lawsuit got started?

24 A Yes.

25

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DAVID SAPERSTEIN

1 Q Was that at a garage or somewhere  
2 else?

3 A At a garage.

4 Q Do you recall which one?

5 A 1155, maybe 145.

6 Q What generally was discussed between  
7 you and Mr. Pena?

8 A Nothing of substance, just hello and  
9 goodbye.

10 Q Do you know who Miguel Rojas is?

11 A Yes.

12 Q Have you ever met or spoken with him?

13 A I don't know whether I've ever met  
14 him. I just know the name. I could've met him  
15 in a garage, I don't know.

16 Q How about Rolando Rojas, do you know  
17 who he is?

18 A I know who he is. I've met him; but  
19 if I met him again, I wouldn't know it was him.

20 Q What do you recall about meeting him?

21 A Just cordial. Again, he speaks  
22 limited English.

23 Q Franklin Santana, do you know who he  
24 is?

25

## **EXHIBIT V**

**SP Payroll corp.**

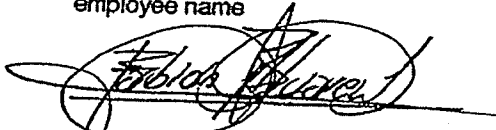
1832 Second Ave  
New York, NY 10128  
212 289 3800  
fax: 212 202 5354

I understand that company policy is I will receive a 1 hour meal break per shift. The 1 hour per shift will be deducted from the time card total.

Yo entiendo que la reglas de la compania es que yo recibire 1 hora de luch por cada turno. La hora por cada turno sera reducida de el total de horas de la tajeta.

EDISON F. ALVAREZ

employee name

  
employee signature

IVY

## **EXHIBIT W**

**SP Payroll corp.**

1832 Second Ave  
New York, NY 10128  
212 289 3800  
fax: 212 202 5354

I understand that company policy is I will receive a 1 hour meal break per shift. The 1 hour per shift will be deducted from the time card total.

Yo entiendo que la reglas de la compania es que yo recibire 1 hora de luch por cada turno. La hora por cada turno sera reducida de el total de horas de la tajeta.

Miguel Rojas  
employee name

Miguel Rojas  
employee signature

SABR